

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7291

BILL NUMBER: HB 1349

NOTE PREPARED: Jan 13, 2004

BILL AMENDED:

SUBJECT: Litigation by Inmates.

FIRST AUTHOR: Rep. Chowning

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☐ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill provides that before filing a civil rights action or tort claim action against a public employee or government entity, an offender must submit certain documentation to the court. The bill also prohibits an offender from bringing a civil action or appealing a judgment in a civil action or proceeding if the offender has, on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court that was dismissed on the grounds that it was frivolous or malicious or failed to state a claim upon which relief may be granted, unless the offender is under imminent danger of serious physical injury.

Effective Date: July 1, 2004.

Explanation of State Expenditures: Under current law, when an offender confined to a state correctional facility files a lawsuit, the court is required to review the case and require the opposing party to respond. If the state of Indiana is the defendant, then the Office of the Attorney General will be the responding party. Based on the nature of the lawsuit, the responding party can request that the court dismiss the lawsuit without any further review.

Under the bill, an offender may not appeal a judgement in a civil action or proceeding if the court certifies in writing that it is not taken in good faith. Also, the bill would require the court to dismiss a civil action or an appeal of a judgement in a civil action or proceeding if the court determines that an allegation of poverty is untrue, or the action is frivolous, malicious, or fails to state a claim. Also, the offender may not bring an action if the offender has brought three prior actions that were dismissed on the grounds that the actions were frivolous, malicious, or failed to state a claim.

When an action is brought by a prisoner against a public employee or government entity, among other requirements, the bill would require an offender to provide a list of all cases previously filed by the offender and file a brief that includes the legal argument, citation to authority, and explanation of why the new action is not subject to dismissal as a matter finally decided on its merits. The court would then dismiss any cases that are determined to be frivolous, malicious, or otherwise utterly without merit, or that fails to state a claim.

The bill would reduce the work load of the Office of the Attorney General if the court which receives these cases reviews and dismisses these claims without requiring the AG's Office to respond. The Torts Claims Division of the Office of the Attorney General reports the following information about claims from offenders.

		Disposition		
	Total Number of Prisoner Claims	State Paid On	Still Open	Closed with Nothing Paid
FY 2002	711	55	7	649
FY 2003	766	32	46	688

Of the total claims paid in 2002 and 2003, 83 of the 87 paid were for damage of property belonging to a prisoner. Other than appeals against sentences imposed, when offenders file lawsuits against the state, the cases often involve small claims cases for property damage, mistreatment by staff, and petitions for credit time for education. When the defendants are individuals, the cases will often involve divorce, child support, and paternity actions and citations.

Explanation of State Revenues:

Explanation of Local Expenditures: This bill would require the court to examine these claims first and then determine whether the claim would proceed. *Since the judge will review the claim anyway, this requirement will not likely have any practical effect on court operations.*

Potential Counties Affected: Counties where a large number of offenders are located are likely to have more litigation to review than others. There are 16 counties with adult facilities in Indiana that would be affected by this bill. The five counties with the largest adult offender population are LaPorte, Miami, Hendricks, Putnam, and Sullivan. There are eight counties that have juvenile correctional facilities including Allen, Cass, Hendricks, LaPorte, Madison, Marion, Monroe, and St. Joseph. DOC offenders are also housed in county jails in 66 counties that have contracts with DOC to house these offenders.

Explanation of Local Revenues:

State Agencies Affected: Attorney General.

Local Agencies Affected:

Information Sources:

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